IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/06/2004

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THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MR.JUSTICE N.KANNADASAN

Habeas Corpus Petition No.528 of 2004 and Habeas Corpus Petition NO.529 of 2004

Erode V. Manikandan .. Petitioner in
both HCPs.
-Vs-

The State of Tamilnadu rep. by
the Home Secretary to Government
Fort St.George, Chennai 600 009.

The Superintendent of Police
Coimbatore Rural
Race Course Road, Coimbatore.

The Inspector of Police
Avinashipalayam Police Station
Avinashipalayam
Coimbatore District.

The Inspector of Police
Palladam Police Station Respondents in
Palladam, Coimbatore District. .. HCP No.528/04

The State of Tamilnadu rep. by
the Home Secretary to Government
Fort St.George, Chennai 600 009.

The Superintendent of Police
District Police Office, P.S. Park
Erode 638 001.

The Inspector of Police
Malayampalayam Police Station
Malayampalayam, Erode District.

The Inspector of Police
Kodumudi Police Station
Kodumudi, Erode District.

The Inspector of Police
Vellode Police Station
Vellode, Erode District.

The Inspector of Police
Sivagiri Police Station
Sivagiri, Erode District.

The Inspector of Police
Taluk Police Station Respondents in
Erode, Erode District. .. HCP No.529/04

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr. Thalaimutharasu

For Respondents : Mr. Abudukumar
Additional Public Prosecutor

:O R D E R

(The order of the Court was made by
P.D.DINAKARAN, J.)

HCP No.528 of 2004 is for a writ of Habeas Corpus directing the production of detenu Jeeva @ Raja before this Court and set him at liberty forthwith and further to declare Jeeva's detention for the past nine months in Cr.No.340/2003 of the Palladam Police Station, the fourth respondent as illegal and consequently direct the first respondent to provide adequate punitive compensation to Jeeva @ Raja.

2. HCP No.529 of 2004 is for a writ of Habeas Corpus directing the production of detenu Manickam before this Court and set him at liberty forthwith and further to declare Manickam's detention for the past 27 months in Cr.Nos.22/01, 224/01, 6/02, 23/02, 76/00, 314/01 of the Police Stations of respondents 3, 5, 6 and 7 as illegal and consequently, direct the first respondent to provide adequate punitive compensation to Manickam.

3. The petitioner in both the petitions, who is a practising Advocate, of course claiming as a next friend of the detenu, seeks the above relief, purely on the grounds that the custody of the detenus by the respondents are illegal and that they are entitled for the defence of alibi.

4. As it is apparent on the face of the record that the detenus are remanded to judicial custody in Crime No.340/2003 on the file of the Palladam Police Station and Crime Nos.22/01, 224/01, 6/02, 23/02, 76/00, 314/01 of the Police Stations of respon s 3, 5, 6 and 7 in HCP No.529 of 2004 respectively, this Court cannot exercise the jurisdiction under Article 226 of the Constitution of India in granting the relief as prayed for.

5. That apart, the defence of alibi also cannot be gone into at this stage, in a habeas corpus petition and the Court cannot investigate the plea of alibi in preventive detention, as held by the Apex Court in MONI LAL v. STATE OF WEST BENGAL reported in AIR 1975 SC 2056 = (1976) 1 SC 191.

6. It is not for us to investigate the alibi of the detenu. The jurisprudence of preventive detention ordinarily keeps this area out of bounds and out of the purview of this Court. Hence, finding it difficult to accede to the contention of the petitioner, the writ petitions are dismissed holding that the petitioner has no locus standi to seek the relief as prayed for. Accordingly, they are dismissed, without prejudice to the right of the petitioner to work out his remedies in appropriate forum.

Index : Yes
Internet: Yes

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To

1. The Home Secretary to Government
Fort St.George, Chennai 600 009.

2. The Superintendent of Police
Coimbatore Rural
Race Course Road, Coimbatore.

3. The Inspector of Police
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Sivagiri, Erode District.

10.The Inspector of Police
Taluk Police Station
Erode, Erode District.

11.The Public Prosecutor
High Court, Madras.

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